

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ISRAEL MARCOLINO SCHAFFNER,	:
Plaintiff,	:
	: MEMORANDUM AND ORDER
– against –	: 19-CV-5298 (AMD) (RML)
DIAMOND RESORTS HOLDINGS, LLC, et al.,	:
Defendants.	:
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ANN M. DONNELLY, United States District Judge:

On August 28, 2019, the plaintiff filed an amended complaint in the Supreme Court of the State of New York, County of Queens, alleging violations of the Fair Credit Billing Act and the Truth in Lending Act, as well as state law claims for intentional infliction of emotional distress and for violations of Section 349 of New York’s General Business Law. (ECF No. 1-2.) On September 17, 2019, the action was removed to the Eastern District of New York by the defendants Diamond Resorts Holdings, LLC, Diamond Resorts International, Inc., Diamond Resorts International Marketing, Inc., Diamond Resorts International Club, Inc., Diamond Resorts Management, Inc., Diamond Resorts Developer & Sales Holdings Company, Diamond Resorts Financial Services, Inc., Diamond Resorts U.S. Collection, L.L.C., Diamond Resorts U.S. Collection Members Association, Michael Flaskey and Kenneth Siegel (collectively, the “Diamond defendants”). (ECF No. 1.) One June 1, 2020, I granted the Diamond defendants’ motion to dismiss the plaintiff’s federal claims. (ECF No. 9.) On June 24, 2021, I granted summary judgment on the remaining state law claims in favor of the Diamond defendants, and I

allowed the plaintiff to move for default judgment against the remaining defendant Vitor Menna Barreto within 30 days of the order. (ECF No. 30.)

On July 19, 2021, the plaintiff moved for default judgment against the defendant Barreto. (ECF No. 31.) On October 19, 2021, Magistrate Judge Robert M. Levy issued a Report and Recommendation in which he recommended that the motion for default judgment be denied. (ECF No. 33.) Judge Levy found “no proof of service of a summons and complaint on defendant Barreto.” (*Id.* at 2.) No objections have been filed to the Report and Recommendation, and the time for doing so has passed.¹

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the report and recommendation to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks omitted) (quoting *Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003)).

¹ On November 9, 2021, the Report and Recommendation mailed to the plaintiff’s last known address was returned as undeliverable. (ECF No. 34.) “When a party changes addresses, it is his obligation to notify the Court of his new address.” *Sigala v. Spikouris*, No. 00-CV-0983, 2014 WL 294155, at *1 (E.D.N.Y. Jan. 24, 2014); *see also Xin Hao Liu v. Millennium Motors Sports, LLC*, No. 17-CV-6438, 2020 WL 7028924, at *3 (E.D.N.Y. Nov. 5, 2020) (“All parties, including *pro se* litigants, have an obligation to provide updated contact information to the court, which includes notification of a new mailing address, phone number, or email address.”), *report and recommendation adopted sub nom. Xin Hao Liu v. Millennium Motor Sports, LLC*, No. 17-CV-6438, 2020 WL 7024378 (E.D.N.Y. Nov. 30, 2020).

CONCLUSION

I have reviewed Judge Levy's well-reasoned Report and Recommendation carefully and find no error. Accordingly, I adopt the Report and Recommendation in its entirety. The motion for default judgment is denied. The Clerk of Court is respectfully directed to mail a copy of this order to the *pro se* plaintiff and close this case.

SO ORDERED.

s/Ann M. Donnelly

ANN M. DONNELLY
United States District Judge

Dated: Brooklyn, New York
November 16, 2021